

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 569
By: Huffman
Health & Human Services
4/2/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Approximately one million children attend day care operations in Texas. The number of past incidents of abuse, neglect, and exploitation of a child at licensed or regulated child-care facilities are unconscionable. S.B. 569 (1) establishes minimum standards for listed family homes; (2) requires inspections of listed family homes at least once every three years; (3) enhances consumer choice by posting relevant inspection information for a minimum of five years; (4) requires an applicant to operate a listed family home to complete safe sleep training; (5) requires listed family homes to maintain liability insurance coverage, with certain exceptions; and (6) requires listed family homes to undergo initial and subsequent background and criminal history checks. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 569 amends current law relating to the regulation of listed family homes.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission (executive commissioner) in SECTION 1 (Section 42.042, Human Resources Code) of this bill.

Rulemaking authority previously granted to the executive commissioner is modified in SECTION 4 (Section 42.0446, Human Resources Code) of this bill.

Rulemaking authority previously granted to the executive commissioner is rescinded in SECTION 8 (Section 42.052, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 42.042, Human Resources Code, by adding Subsection (d-1) and amending Subsection (g), as follows:

(d-1) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner; HHSC) by rule to adopt minimum standards for listed family homes. Requires the minimum standards to:

- (1) promote the health, safety, and welfare of children attending a listed family home;
- (2) promote safe, comfortable, and healthy listed family homes for children;
- (3) ensure adequate supervision of children by capable, qualified, and healthy personnel; and
- (4) ensure medication is administered in accordance with Section 42.065 (Administering Medication).

(g) Authorizes the executive commissioner, in promulgating minimum standards, to recognize and treat differently the types of services provided by certain entities, including listed family homes. Makes nonsubstantive changes.

SECTION 2. Amends Sections 42.044(a) and (c), Human Resources Code, as follows:

(a) Authorizes an authorized representative of HHSC, rather than the Department of Family and Protective Services (DFPS), to visit a facility regulated under this chapter (Regulation of Certain Facilities, Homes, and Agencies That Provide Child-Care Services) or a registered or listed family home during operating hours to investigate, inspect, and evaluate.

(c) Makes conforming changes to this subsection.

SECTION 3. Amends Section 42.04425, Human Resources Code, by adding Subsection (d) to require HHSC to provide with the inspection data described by Subsection (c) (relating to circumstances in which DFPS is authorized to release certain information) a minimum of five years of investigative data for listed family homes regulated under this chapter to enhance consumer choice with respect to those homes.

SECTION 4. Amends Section 42.0446, Human Resources Code, to make conforming and nonsubstantive changes.

SECTION 5. Amends Section 42.0447(a), Human Resources Code, to make conforming changes.

SECTION 6. Amends Section 42.046, Human Resources Code, by adding Subsection (f) to require an applicant for a listing to operate a family home to submit with the application proof of the applicant's successful completion of safe sleep training in accordance with HHSC rules.

SECTION 7. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.0495, as follows:

Sec. 42.0495. LIABILITY INSURANCE REQUIRED FOR LISTED FAMILY HOMES.

(a) Requires a listed family home to maintain liability insurance coverage in the amount of \$300,000 for each occurrence of negligence. Requires an insurance policy or contract required under this section to cover injury to a child that occurs while the child is on the premises of or in the care of the listed family home.

(b) Requires a listed family home to annually file with HHSC a certificate or other evidence of coverage from an insurance company demonstrating that the listed family home has an unexpired and uncanceled insurance policy or contract that meets the requirements of this section.

(c) Requires a listed family home, if the home is unable to secure a policy or contract required under this section for financial reasons or for lack of availability of an underwriter willing to issue a policy or contract or the home's policy or contract limits are exhausted, to timely provide written notice to the parent or guardian of each child attending the home that the liability coverage is not provided.

(d) Requires a listed family home described by Subsection (c) to timely provide written notice to HHSC that the home is unable to secure liability insurance and the reason the insurance could not be secured.

(e) Prohibits HHSC from assessing an administrative penalty or suspending or revoking a listed family home's listing for violating Subsection (a) if the home complies with the notice requirements under this section. Prohibits this subsection from being construed to indemnify a family home for damages due to negligence.

SECTION 8. Amends Sections 42.052(f) and (i), Human Resources Code, as follows:

(f) Makes conforming changes to this subsection.

(i) Requires HHSC, rather than DFPS, to provide to a listed family home a copy of the listing. Modifies the language of the required listing to make conforming changes and to provide that a listed family home has limited minimum standards and is not inspected unless a complaint is filed with HHSC, rather than providing that it has not been inspected and will not be inspected. Deletes existing text requiring the executive commissioner by rule to provide for a sufficient period to allow operators of family homes to comply with the listing requirements of this section.

SECTION 9. Amends Section 42.0522(b), Human Resources Code, to make conforming changes.

SECTION 10. Amends Section 42.0523, Human Resources Code, by adding Subsection (e), as follows:

(e) Provides that the following requirements do not apply to a family home listed under this section (Listing of Relative Child-Care Providers):

(1) the minimum standards adopted under Section 42.042 (Rules and Standards);
and

(2) the liability insurance requirement under Section 42.0495.

SECTION 11. Repealer: Section 42.044(c-1) (relating to investigation of a listed family home), Human Resources Code.

Repealer: Section 42.044(c-2) (relating to notification of investigation to a family home operator), Human Resources Code.

SECTION 12. Requires the executive commissioner to adopt rules necessary to implement Chapter 42, Human Resources Code, as amended by this Act, as soon as practicable after the effective date of this Act.

SECTION 13. Provides that HHSC is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. Authorizes, but does not require, HHSC to implement a provision of this Act using other appropriations available for that purpose if the legislature does not appropriate money specifically for that purpose.

SECTION 14. Effective date: September 1, 2019.